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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/816,362

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Adam Merzon

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Law Office of Stephen Cannavale  
3 Hanlan Road  
Caldwell, NJ 07006

EXAMINER
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LEWIS, JUSTIN V

ART UNIT	PAPER NUMBER
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3725

MAIL DATE	DELIVERY MODE
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07/10/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/816,362	<b>Applicant(s)</b> MERZON, ADAM	
	<b>Examiner</b> JUSTIN V. LEWIS	<b>Art Unit</b> 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-15 and 18-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 18-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 November 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Applicant's amendment, received on 18 April 2008 is acknowledged. Amended claims 1, 3, 20-23 and 27 have been entered. Accordingly, claims 1-12, 14-15, 18-27 are currently pending.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 14-15, 18-20 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 1,121,197 to McMillan ("McMillan") in view of U.S. Patent No. 6,209,917 to Welch ("Welch").

McMillan discloses a binder arrangement comprising: a) a pair of covers (each cover being composed of covers 1-2, and backs 3-4, respectively) each hingably carried a predetermined distance from a centerline of a spine (cover-board 5), each of the pair of covers being constructed with a pivoting surface that pivots 90 degrees against each of the hinges (see figs. 1-3) and wherein the centerline is located at the midpoint between a first and second side edge (note that the "centerline" is located at approximately the midpoint of the cover-board 5); b) a first set of binders (6) including a plurality of binding mechanisms (rings), the binders being permanently fixed (see col. 2, lines 67-69) at a location parallel and adjacent to the spine (see fig. 1) and carried by one of the covers (attached to back 3, specifically); and c) a second set of binders (6)

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including a plurality of binding mechanisms (rings), the binders being carried by the other one of the covers (attached to back 4, specifically), wherein both of the first set of binders and the second set of binders are located closer to the centerline than to either of the first or second side edges (see fig. 1), and fixed substantially hermaphroditical with respect to each other (see fig. 1), and wherein the sets of binders are offset from one another such that one set of binders (the set attached to back 3) is spaced farther away from the centerline of the spine than the other set of binders (the set attached to back 4) (see fig. 3; note that the set attached to back 3 appears to be slightly smaller than the opposite set; accordingly, this set appears to be located farther from the centerline than the other set), and the sets of binders do not overlies each other when the binder arrangement is disposed in a closed position with one of the covers generally overlying the other one of the covers (see fig. 3), but fails to disclose the covers and spines being defined by a board having hinges comprised of scores.

Welch teaches the concept of creating a pair of covers and spine defined by a one-piece fibrous board (see col. 5, lines 44-46, providing that the board may be fiberboard; see also col. 3, lines 11-13, providing that the board may be solid chipboard, paperboard, or corrugated board; note that "kraftboard" is a form of "paperboard") that includes a pair of spaced apart integrally formed hinges (see fig. 12) with each hinge being comprised of a plurality of pairs of scores (creases 45) formed in an interior surface of the board (see fig. 12, showing 7 scores formed on the interior surface of each of two hinge sections), wherein each score comprises a slit formed in the interior surface of the board that does not extend completely through the board (see fig. 6), and

wherein the scores of each hinge defines a region of the board that is compressed to a thickness that is less than the surrounding thickness of the board (see fig. 6).

It would have been obvious to a person of ordinary skill in the art to construct the integral McMillan free covers, backs, and common cover using the Welch board, applying the Welch hinge crease concept, in order to form living hinges which function like a "joint" or "knuckle," as explicitly taught by Welch (see col. 3, lines 32-33).

Regarding claims 4-5, McMillan in view of Welch discloses the binder arrangement of claim 3, wherein the offset is less than one inch (as it appears in fig. 3), but fails to disclose the offset being between one-quarter of an inch and three-quarters of an inch, more specifically, about one-half of an inch.

It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. See In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to construct the binder offset at any desirable range, as Applicant has asserted no criticality of having the offset within a particular distance range, and the invention would function equally well with any desirable offset distance.

4. Claims 6-9 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMillan in view of Welch and further in view of U.S. Patent No. D364,640 to Zimbelman ("Zimbelman").

McMillan in view of Welch discloses the binder arrangement of claim 1, but fails to disclose a hold down page that is equipped with a releasable latch.

Zimbelman discloses a hold down page that is equipped with a releasable latch that releasably anchors the hold down page to one of the covers via hook and loop fasteners (see fig. 1).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to: i) attach Zimbelman release latches to the side edges of each cover of McMillan in view of Podosek, and ii) attach a Zimbelman hold down page and latch receiver to the binder located on each cover of McMillan in view of Podosek, in order to retain the pages within each binder in a position adjacent to the covers, as explicitly taught by Zimbelman (see fig. 1).

5. Claims 10-12 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMillan in view of Welch, and further in view of U.S. Patent No. 6,079,528 to Moor ("Moor").

McMillan in view of Welch discloses the binder arrangement of claim 1, but fails to disclose a case that encompasses the binder arrangement.

Moor teaches a case that encompasses a binder arrangement that includes flexible sidewalls that each comprise a skirt (gusset 18) that extends along the side edges of each cover (see fig. 1) with one said skirt releasably attached to the other skirt by a fastening arrangement (zipper 24) that is elastically anchored to the spine by a stretchable elastomeric fabric gather (expansion panel 42) spanning the entire length of the zipper (see fig. 1) and functions as a shock absorber during opening and closes of

the zipper (inherent, given the flexibility of the expansion panel, as provided in col. 3, line 11).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to attach small lengths of the Moor gusset to the open sides of the binder arrangement of McMillan in view of Podosek, in order to retain items within the binder should they become loose, as explicitly taught by Moor (see col. 1, lines 22-23).

6. Claims 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMillan in view of Welch, and further in view of U.S. Patent No. 5,332,327 to Gillum ("Gillum").

McMillan in view of Welch discloses the binder arrangement of claim 25, but fails to disclose a paper straightening structure.

Gillum teaches a fastening mechanism (left and right arms, 42 and 46, respectively) including a paper straightening structure (right arm 46) when the arrangement is in the closed position (see figs. 1 and 3), wherein the paper straightening structure is a linear portion of a D-shaped ring (see figs. 1, 3 and 4).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to replace the rings of McMillan in view of Podosek with the Gillum left and right arms, in order to provide a means by which to load papers requiring strictly vertically downward movement, as explicitly taught by Gillum.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection. The newly amended claims 1, 3, 20-23

and 27, and claims 2, 4-15, 18-19 and 24-27, dependent thereon, are addressed in the new grounds of rejection under 35 U.S.C. §103, supra.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUSTIN V. LEWIS whose telephone number is (571)270-5052. The examiner can normally be reached on M-F 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JVL/

/Derris H Banks/  
Supervisory Patent Examiner, Art  
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